



# CITY OF LODI

## COUNCIL COMMUNICATION

**AGENDA TITLE:** Public Hearing to consider the Planning Commission's recommendation that the City Council adopt an Amendment to the City of Lodi Municipal Code, Chapter 17, by Adding Section 17.73 "Live Entertainment Permits."

**MEETING DATE:** December 15, 1999

**PREPARED BY:** Community Development Director

**RECOMMENDED ACTION:** That the Council approve the attached draft Ordinance and introduce it for first reading.

**BACKGROUND INFORMATION:** As the Council will recall, I gave a presentation at the Shirtsleeve meeting on September 14, 1999 regarding live entertainment and the current regulations governing their establishment. The City Council direction from that meeting was to develop an administrative process that minor or accessory types of live entertainment requests could be reviewed without having to go through a Use Permit.

The process outlined in the draft Ordinance is similar to that used for Administrative Deviations. Again, the idea being to identify a specific set of criteria that would have to exist prior to an application for the administrative process. If the scenario did not fit within the criteria, a Use Permit would then need to be sought.

The City Manager, Economic Development Coordinator and myself met on several occasions to draft the criteria shown. The Planning Commission, at their October 27<sup>th</sup> meeting, voted to recommend approval of the new process. The Commission felt that the type of entertainment that would fall into the administrative process would indeed be incidental, and pursuing this would streamline the review while still ensuring appropriate conditions.

The final piece of this will be to set a filing fee for the new review. Should the City Council approve the draft Ordinance, staff will recommend a Resolution at your next meeting for that purpose.

**FUNDING:** None required

Konradt Bartlam  
Community Development Director

KB/lw

Attachments

APPROVED: \_\_\_\_\_

H. Dixon Flynn -- City Manager

**RESOLUTION NO. P.C. 99-43**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI  
RECOMMENDING CITY COUNCIL ADOPTION OF A ZONING ORDINANCE  
AMENDMENT ADDING SECTION 17.73 CONCERNING LIVE ENTERTAINMENT.**

WHEREAS, the Planning Commission of the City of Lodi has heretofore held a duly noticed public hearing, as required by law, on the requested amendment and addition to the Municipal Code regarding Live Entertainment.

WHEREAS, the proposed amendment and additions to the Zoning Ordinance will affect all properties within the City of Lodi.

WHEREAS, all legal prerequisites to the approval of this Resolution have occurred.

NOW, THEREFORE, BE IT FOUND, DETERMINED AND RESOLVED by Planning Commission of the City of Lodi as follows:

1. A Notice of Exemption has been prepared in compliance with the California Environmental Quality Act of 1970, as amended, and the Guidelines provided thereunder. Further, the Commission has reviewed and considered the information contained in said Notice of Exemption with respect to the project identified in this Resolution.
2. The Planning Commission finds that approval of the zoning amendments and additions will result in good planning practice and be to the benefit of the population by providing an administrative review process for minor Live Entertainment requests.
3. That the Planning Commission recommends that the City Council approve the attached text amendment and additions found in Exhibit A.

Dated: October 27, 1999

I hereby certify that Resolution No. 99-43 was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on October 27, 1999, by the following vote:

AYES:	Commissioners: Crabtree, Heinitz, McGladdery, Rasmussen, Schmidt, and Chairman Mattheis
NOES:	Commissioners:
ABSENT:	Commissioners: Borelli
ABSTAIN:	Commissioners:

ATTEST:

  
Secretary, Planning Commission

## HEARING CLOSED TO THE PUBLIC

The Planning Commission on motion of Commissioner Rasmussen, Crabtree second, approved the amendment to the List of Permitted Uses Contained Within Planning Commission Resolution C.P.C. #1 Regarding the C-2, General Commercial Zone Pertaining to Theaters subject to the conditions set forth in the Resolution.

AYES: Commissioners: Crabtree, Heinitz, Rasmussen, McGladdery, and  
Chairman Mattheis

NOES: Commissioners: Schmidt

ABSENT: Commissioners Borelli

ABSTAIN: Commissioners

**Amendment to the City of Lodi Municipal Code, Chapter 17, by Adding Section 17.73 “Live Entertainment Permits.”** Community Development Director Bartlam presented this matter to the Commission. He stated that over the summer an issue arose regarding a small business having live entertainment without a Use Permit. After a City presentation to the City Council, the City Council directed staff to create criteria for an administrative process for minor live entertainment requests. Staff put together criteria that best described the entertainment uses that are relatively minor in nature. Following is the criteria that was created:

- A. Any amplification of entertainment must be confined indoors.
- B. Non-amplified music/performance may take place outdoors with an approved site plan.
- C. The entertainment shall be clearly incidental to the primary use of the property (i.e. no stage or dance floor may exist).
- D. No nuisance is created by reason of noise-increased traffic or other similar causes.
- E. The property shall be a minimum three hundred feet (300') from a residential zone.

Community Development Director Bartlam noted that minor entertainment permits could go through at an administrative level rather than the Planning Commission level. The administrative process will still enable the City to condition an application and the applicant would have the ability to appeal any decision. Staff invited the Commission to make any changes to the proposed Live Entertainment Permits section that was being presented.

Commissioner Mattheis questioned if the permits would only be for private properties. Community Development Director Bartlam responded that was correct and added that the Zoning Code pertains to private property verses public rights-of-way. The City Council has ultimate control over City properties and has the ability to set whatever restrictions they please. One-time happenings, i.e., Farmer’s Market and Lunchtime Live, are not covered in the Zoning Code.

Commissioner McGladdery pointed out that the Live Entertainment Permit only addresses non-residential properties. He asked the limitations in residential areas. Community Development Director stated that the City would not cover one-time events on residential properties like weddings or parties, but if it were an on-going issue, it would be prohibited as a business.

Commissioner McGladdery noted that when an event is being held on Public property and goes wayward, usually it's too late to do anything after the event. He would like to see a process regulating entertainment within the public areas.

### **Hearing Opened to the Public**

No one came forward to speak on the matter.

### **Hearing Closed to the Public**

The Planning Commission on motion of Commissioner Schmidt, McGladdery second, approved to recommend to the City Council an amendment to the City of Lodi Municipal Code, Chapter 17, by adding Section 17.73 "Live Entertainment Permits." subject to the conditions set forth in the Resolution.

AYES: Commissioners: Crabtree, Heinitz, McGladdery, Rasmussen,  
Schmidt and Chairman Mattheis

NOES: Commissioners:

ABSENT: Commissioners Borelli

ABSTAIN: Commissioners

### **ANNOUNCEMENT AND CORRESPONDENCE**

Community Development Director Bartlam reported that former Community Development Director Jim Schroeder suffered an aneurysm and is in critical condition at St. Joseph's Hospital in Stockton. He further stated that blood donations are being taken in his name at the Delta Blood Bank.

### **ACTIONS OF CITY COUNCIL**

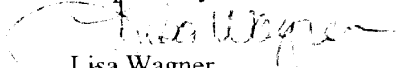
The City Council approved the General Plan Amendments for the two properties (Tecklenburg and St. John the Baptist) and are moving forward with the annexation requests.

Commissioner Mattheis thanked Mr. Bartlam and staff for taking care of the issue regarding the color of blocking used on the new Safeway Market.

### **ADJOURNMENT**

As there was no further business to be brought before the Planning Commission, Chairman Mattheis adjourned the session at 8:30 p.m.

Respectfully submitted,



Lisa Wagner  
Secretary



**MEMORANDUM, City of Lodi, Community Development  
Department**

**To:** Planning Commission  
**From:** Community Development Director  
**Date:** October 27, 1999  
**Subject:** Amendment to the City of Lodi Municipal Code, Chapter 17, by Adding Section 17.73 "Live Entertainment Permits."

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SUMMARY

On September 14, 1999, the City Council received a presentation by the Community Development Director regarding Use Permits for Live Entertainment. As the Commission may recall, the issue blossomed from a situation concerning Live Entertainment at a local small business. The feeling of the proprietor was that an incidental use, such as the entertainment they were providing, did not warrant a full scale Use Permit. In some circumstances, staff agreed.

As a result of my presentation, the City Council directed that an administrative process be designed that would provide for a necessary review and approval for minor entertainment requests. Staff, treating the issue the same as the current Administrative Deviation process, set out to identify specific criteria that would have to exist in order for the administrative process to work.

Attached to the draft Resolution is staff's recommendation. I feel that it gives enough flexibility to deal with rather minor requests while still providing for a Use Permit for those potentially significant situations. The administrative process will still enable the City to condition an application and the applicant would have the ability to appeal any decision.

RECOMMENDATION

Staff recommends that the Commission recommend approval to the City Council the language contained as Exhibit "A" in the draft Resolution.

Respectfully Submitted,

A handwritten signature in black ink, appearing to be "Konradt Bartlam", written over a circular stamp or seal.

Konradt Bartlam  
Community Development Director

KB/lw

Attachement

ORDINANCE NO. 1686

AN ORDINANCE OF THE LODI CITY COUNCIL  
AMENDING LODI MUNICIPAL CODE TITLE 17 -  
ZONING, BY ADDING CHAPTER 17.73, RELATING TO  
LIVE ENTERTAINMENT PERMITS

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BE IT ORDAINED BY THE LODI CITY COUNCIL AS FOLLOWS:

Section 1. Lodi Municipal Code Title 17 Zoning is hereby amended by adding Chapter 17.73 Live Entertainment Permits, to read as follows:

Chapter 17.73  
Live Entertainment Permits

Sections:

17.73.10 Intent - It is the intent of this chapter to provide for an administrative review and approval process for specified live entertainment requests.

17.73.20 Permitted Live Entertainment Applications - Requests for Live Entertainment permits shall be reviewed by the Community Development Director subject to the following conditions:

- A. Any amplification of entertainment must be confined indoors.
- B. Non-amplified music/performance may take place outdoors with an approved site plan.
- C. The entertainment shall be clearly incidental to the primary use of the property (i.e. no stage or dance floor may exist).
- D. No nuisance is created by reason of noise-increased traffic or other similar causes.
- E. The property shall be a minimum three hundred feet (300') from a residential zone.

17.73.30 Requirements for Application - A request for a Live Entertainment Permit shall include a site plan, floor plan and any other information as deemed to be necessary by the Community Development Director.

17.73.40 Reviewing Authority - The Community Development Director shall be the reviewing authority under this chapter. All decisions shall be based on consideration of all relevant information received and shall include findings granting or denying the application.

17.73.50 Findings - In granting any Live Entertainment Permit, the Community Development Director shall find that the establishment, maintenance or conducting of the use will not, under the circumstances of the particular case, be detrimental to the health, morals, comfort or welfare of persons residing or working in the neighborhood of

the proposed use, or to property or improvements in neighborhood, or will not be contrary to the general public welfare.

17.73.60 Conditions - In acting upon any permit, the Community Development Director may designate such regulations as a condition of the action as may be deemed necessary for the protection of the general public welfare, any violation of which regulations shall automatically invalidate the permit, as the case may be. Permits shall be granted to the applicant only, and shall not be transferable by the applicant and may be limited as to their duration.

17.73.70 Appeals to Planning Commission - All decisions of the Community Development Director, including the applicability of this chapter, shall be subject to appeal to the Planning Commission, by written request, within ten days after the decision.

17.73.80 Live Entertainment Permit Fee - The filing of an application for a Live Entertainment Permit with the Community Development Director shall be accompanied by the payment of a filing fee as set and established from time to time by resolution of the City Council. No part of such filing fee is returnable.

Section 2. - No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 3. - Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

Section 4. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

Section 5. This ordinance shall be published one time in the "Lodi News Sentinel", a daily newspaper of general circulation printed and published in the City of Lodi and shall be in force and take effect thirty days from and after its passage and approval.

Approved this \_\_\_\_ day of \_\_\_\_\_, 2000

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STEPHEN J. MANN  
Mayor

Attest:

ALICE M. REIMCHE  
City Clerk

State of California  
County of San Joaquin, ss.

I, Alice M. Reimche, City Clerk of the City of Lodi, do hereby certify that Ordinance No. 1686 was introduced at a regular meeting of the City Council of the City of Lodi held December 15, 1999 and was thereafter passed, adopted and ordered to print at a regular meeting of said Council held \_\_\_\_\_, 2000 by the following vote:

Ayes: Council Members -

Noes: Council Members -

Absent: Council Members -

Abstain: Council Members -

I further certify that Ordinance No. 1686 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

ALICE M. REIMCHE  
City Clerk

Approved as to Form:

A handwritten signature in black ink, appearing to read "Randall A. Hays", written in a cursive style.

RANDALL A. HAYS  
City Attorney





## CITY OF LODI

Carnegie Forum  
305 West Pine Street, Lodi

## NOTICE OF PUBLIC HEARING

Date: December 15, 1999

Time: 7:00 p.m.

For information regarding this notice please contact:

Alice M. Reimche  
City Clerk  
Telephone: (209) 333-6702

### NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on **Wednesday, December 15, 1999** at the hour of 7:00 p.m., or as soon thereafter as the matter may be heard, the City Council will conduct a Public Hearing to consider the following matter:

- a) Planning Commission's recommendation that the City Council adopt an Amendment to the City of Lodi Municipal Code, Chapter 17, by adding Section 17.73 "Live Entertainment Permits".

Information regarding this item may be obtained in the office of the Community Development Department Director, 221 West Pine Street, Lodi, California. All interested persons are invited to present their views and comments on this matter. Written statements may be filed with the City Clerk at any time prior to the hearing scheduled herein, and oral statements may be made at said hearing.

If you challenge the subject matter in court, you may be limited to raising only those issues you or someone else raised at the Public Hearing described in this notice or in written correspondence delivered to the City Clerk, 221 West Pine Street, at or prior to the Public Hearing.

By Order of the Lodi City Council:

Alice M. Reimche  
City Clerk

Dated: November 17, 1999

Approved as to form:

Randall A. Hays  
City Attorney